

State of South Dakota

PREMIUM TAX

Premium Tax Base:

§§ 10-44-1, 58-11-1, Bulletin 84-2

Gross direct premiums, not including premiums for reinsurance, less premium refunds and dividends. "Premium" includes any assessment, service or similar fee. Taxes on considerations for annuity contracts are due the year paid by the policyholder to the company.

Tax Rate:

§ 10-44-2

2.5%; for the period 7/1/01 to 7/1/02, the rate is 2.5% of the first \$100,000 in annual premiums and .08% on premiums exceeding \$100,000 per policy

1.25% for annuity considerations; for the period 7/1/01 to 7/1/02, the rate is 1.25% of the first \$500,000 of consideration and .08% for any consideration exceeding \$500,000 per policy

\$10 for each workers' compensation policy issued prior to 7-1-94, \$14 for policies issued thereafter

§ 10-44-9

Additional .5% premium tax on fire insurance premiums

§ 58-6A-5

Risk retention group taxed the same as a foreign admitted insurer

Other Taxes and Assessments:

§ 58-3-3.1 Annual Examination Assessment

Insurers shall pay an annual fee of \$300 by March 1 with the premium tax return.

§ 58-4A-14 Insurance Fraud Prevention Unit

Assessment of \$250 for each insurer licensed in the state to cover costs of fraud unit. May not make an assessment when the balance in the fund is \$100,000 or more.

§ 62-4-34.7 and 62-4-35 Subsequent Injury Fund

Compensation insurer shall be assessed \$500 upon death of person who leaves no relatives entitled to compensation, plus 4% of all benefits paid during prior year into fund. Assessments shall be made when the fund balance falls below \$200,000. Future

assessment may be needed during winding down of the fund. No assessment was made in 2001.

Other Taxes and Assessments (cont.)

§§ 58-29A-76, 58-29A-78 Property and Casualty Guaranty Association

May assess member insurers no more than 2% net direct written premiums for preceding year on kinds of insurance in account with insolvency, plus an administrative assessment not to exceed \$150 per year.

§§ 58-29C-23 to 58-29C-25 Life and Health Guaranty Association

May assess member insurers pro rata or non-pro rata for administrative expenses. If pro rata, credit against future insolvency assessments; if non-pro rata, may not exceed \$150. May also assess maximum of 2% average premiums during 3 prior years for types of policies in account with insolvency.

§ 10-44-8 Preemption

Insurers paying premium tax are exempt from all other state and local taxes except on real and personal property and sales and use taxes.

Exclusions and Deductions:

§ 10-44-3 §58-37A-24 Fraternal Benefit Societies and §10-44-3 Farm Mutual Insurers

Fraternal and farm mutuals are exempt from premium tax.

State of Kansas, ex rel. Todd v. United States of America, 995 F.2d 1505 (10th Cir. 1993).

South Dakota will not collect premium taxes on federally reinsured crop insurance because of the 10th Circuit court ruling.

Credits:

§ 10-44-4 Principal or Regional Home Office

If the company's principal office or regional home office is located in South Dakota over half of the year, may deduct 50% of the premium tax plus an amount equal to the ad valorem taxes on property used as such office, up to another 20% of the tax due. Section 10-44-5 defines a home office.

§ 58-29C-34 Life and Health Guaranty Association

May offset assessments at a rate of 20% per year for each of the 5 calendar years following the year in which the assessment was paid. Total offsets for the year may not exceed \$2 million. If they do, the excess will be apportioned among insurers to be carried forward to a subsequent year in which the annual limitation has not been exceeded.

Payment Due Dates:

§ 10-44-2

Pay before March 1. If last year's premium tax exceeded \$5,000, pay quarterly estimates on April 30, July 31, October 31, and January 31. Each estimate shall equal 25% of last year's tax liability.

Penalties:

§ 10-44-16

All taxes and installments not paid when due shall have penalty of 1.5% per month added.

Extensions:

§§ 10-44-2, 58-6-75

May obtain extension for filing annual statement for good cause; premium tax return to be filed at same time as annual statement.

Retaliatory Law:

§§ 58-6-70 to 58-6-71

If any other state imposes on South Dakota insurers or their agents taxes, licenses or fees, in the aggregate, or fines, penalties, deposit requirements or other material obligations which are in excess of those South Dakota charges similar insurers or agents, retaliation will occur. Charges imposed by political subdivisions are considered imposed by the state.

This provision shall not apply to ad valorem taxes on property or to special purpose obligations or assessments imposed by another state in connection with particular kinds of insurance other than property insurance; except that deductions allowed on account of property taxes paid shall be taken into account by the department.

FEES

Fees are aggregated with taxes on the premium tax return for the purposes of retaliation. If no fee is listed for a particular form or procedure, but another state would retaliate, then a retaliatory fee will be charged insurers from that jurisdiction.

Insurers' Fees:

§ 58-2-29

Certificate of insurer:

Application for original certificate of authority:

Filing application for certificate of authority, articles of incorporation, and other charter documents, bylaws, financial statements, examination reports, power of attorney to the director, and all other documents and filings required in connection with such application	\$500
Issuance of original certificate of authority	25
Annual renewal of certificate of authority	25
Reinstatement of certificate of authority	25
Amendment or reissuance of certificate of authority	25
Annual audit	*500

**This fee to be reduced by the total dollar amount of premium taxes remitted in each calendar year. The fee is waived for all licensed insurers remitting \$500 or more in premium taxes in a calendar year.*

Insurers' Fees (cont.)

Filing amendment of articles of incorporation, domestic and foreign insurers, exclusive of fees required to be paid to the secretary of state by a domestic corporation	\$10
Filing bylaws or amendments thereto	5
Filing annual statement of insurer, other than as part of application for original certificate of authority	25
Filing annual statement of farm mutuals	5
Fraternal receiving more than \$200,000 in premiums	500
Fraternal receiving less than \$200,000 in premiums	100
Rating bureau , original license	25
Tri-annual renewal of license	35
Farm mutuals:	
Application for original certificate of authority:	
Filing application for certificate of authority, articles of incorporation, and all other documents and filings required in connection with such application, and for issuance of original certificate of authority, if issued	25
Annual renewal of certificate of authority	10
Miscellaneous services:	
Copy of any paper filed in the insurance division, for which another price is not set by statute, each page	0.75
Director's sworn certificate, except when on certificates of authority or licenses	10
Receiving and forwarding copy of summons or other process served upon the director, as process agent of an insurer or nonresident agent	10
Continuing education approval	25
Producers' appointments:	
Resident producers:	
Original appointment of producer, each insurer	10
Annual renewal of appointment, each insurer	10
Nonresident producers:	
Appointments, each insurer	20
Annual renewal of appointments, each insurer	20
Corporation or partnership license:	
Appointment, each insurer	10
Annual renewal of appointment, each insurer	10
Nonresident Corporation or partnership license:	
Appointment, each insurer	20
Annual renewal of appointment, each insurer	20
Insurance vending machine license, each machine, each year	20

Producer Licensing Fees:

§ 58-2-29

Insurance producers and solicitors:

Producer's license including also disability insurance when written by property, casualty, or surety insurer otherwise represented by the producer:

Filing application for original license, and including issuance of license, if issued	\$25
Temporary license.....	10
Producer's license, life or health insurance, including both life and disability insurance when so licensed as to the same insurer:	
Application for original license, including issuance of license, if issued, each insurer	25
Temporary license.....	10

Examination for license, each examination and each time taken 10

Limited license as producer:

Motor vehicle physical damage	10
Accident ticket policies, each insurer each year	10
Baggage ticket policies, each insurer each year	10
Credit insurance.....	10

Nonresident producer license:

Original license.....	30
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Corporation or partnership license:

Original license.....	25
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Nonresident Corporation or partnership license:

Original license.....	30
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Surplus line producer license, application for original license including issuance of

license, if issued	50
Annual renewal of license	50

Producers' licensing and examination fees are paid by the insurer and included in the retaliatory tax computation.

DEPOSITS

§ 58-7; 58-6-34; 58-6-36 Domestic Insurers

Other than life: deposit 50% required unearned premium reserves.

Life: Deposit an amount equal to reserves.

§ 58-6-34 thru 58-6-36; 58-6-70; 58-7 Foreign Insurers

None required except in retaliation.

Deposits (cont.)

§ 58-6-36 Title Insurers

Deposit \$100,000 in cash or securities. Domestic title insurers licensed before 7/1/66 shall deposit \$25,000 plus additional amounts, but no more than \$100,000.

CONTACT PERSON

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Every effort has been made to make this information as correct and complete as possible, but for specific issues the reader should check the statutes cited. This summary has been prepared by the NAIC and reviewed by the state's insurance department and/or tax department for accuracy. All decisions on legal interpretation are made by state officials, so the reader should contact the above for further information.